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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/992,345

11/14/2001

Robert J. Eller

10240

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23455

7590

12/08/2006

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EXAMINER

MASINICK, MICHAEL D

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/992,345	<b>Applicant(s)</b> ELLER ET AL.	
	<b>Examiner</b> Michael D. Masinick	<b>Art Unit</b> 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 51-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 51-92 are pending in this application. Claims 1-50 have been cancelled and claims 51-92 are newly presented.

### ***Response to Arguments***

Applicant's arguments with regard to the term "product packaging design" are not found to be persuasive. If applicant is seeking patent protection for adhesives, supplier names, packaging types, and other more specific elements, these parts of the "product packaging design" should be added to the claim language.

All newly pending claims are rejected using the same art previously applied.

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings contain text discussing the drawings on the drawings themselves. Furthermore, there should be no labels such as "figure 10 continued" where the drawing is continued as only text. All text and discussion of the drawings and labels should be moved to the specification and removed from the figures. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 51, 54-64, 67, 69, 72-82, 85, 91, and 92 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No 6,167,382 to Sparks.

4. Regarding independent claims 51 and 69, Sparks shows a method and computer system for management of packaging supply chain, said packaging supply chain including flexible materials and/or labels, comprising the steps of: entering digital data into a digital computer system, said digital data representing: a packaging product design, which comprises a packaging design (Column 10, line 65 – Column 11, line 15), and a packaging order which comprises a specified quantity of a packaging item for delivery on a specified date to an end user (Column 10, line 65 – Column 11, line 15), said packaging item comprising said packaging product design; and analyzing said digital data with said digital computer system to return a digital output having the information required to fulfill said packaging order (Column 7, lines 18-30).

5. Referring to claim 54, Sparks shows wherein said packaging design comprises a graphic displayed on a package (see figure 6 and other figures relating to the design of the product).

6. Examiner notes that the term “package” must be treated to include labels as stated with regard to claim 1 and is not limited to three dimensional packaging. The process followed in the Sparks patent (which is mainly used for print advertising) would be the exact process used to create labels or packaging products.

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7. Referring to claims 55-64, 67, 72-82, 85, 91, and 92, Sparks shows all aspects of these claims relating to the production of advertisement materials. All citations for these claims can be found with regard to previously pending claims 1-50 cited in the previous office action or are clearly found in Sparks.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 52, 53, 65, 66, 68, 70, 71, 83, 84, and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 6,167,382 to Sparks et al in view of “Flexible Modeling and Execution of Workflow Activities” by Mathias Weske.

3. With respect to what has been shown above, Sparks does not show where the digital data includes production resources or availability necessary to produce the packaging item, where the production resources are managed in capacity buckets and the specified date and said specified quantity of said packaging order are electronically compared to the projected production resources availability for purposes of acceptance of said packaging order.

4. Weske shows a method for simulating production within a manufacturing environment which will provide a ship date as well as manage the manufacturing process to ensure that as many deadlines are met as possible. Weske shows entering digital data representing production resources necessary to produce the item ordered in the specified quantity into the computer

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system (“local manufacturing capacities are analyzed” – section 4); entering digital data representing the availability of production resources necessary to produce the quantity of the packaging item ordered on the specified date into the computer system (section 4) and accessing the data entered in the preceding steps to determine the supply chain’s ability to produce the packaging item ordered in the specified quantity on the specified date (section 4).

5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the manufacturing simulation concepts set forth in the Weske paper to determine if the supply chain of Sparks was able to produce the packaging item ordered in the specified quantity on the specified date because built-to-order manufacturing supply chains provide the benefits of reduced production costs and efficient utilization of resources. Customers in Weske are able to determine the manufacturers ability to make the product by a specific date and thusly can make an informed decision about their purchase.

6. Claims 87-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 6,167,382 to Sparks et al in view of “Flexible Modeling and Execution of Workflow Activities” by Mathias Weske as shown above and further in view of U.S. Patent No. 6,415,196 to Crampton et al.

7. With respect to what has been shown above, Sparks in view of Weske does not show wherein the computer system is programmed to schedule a plurality of accepted orders using decision support tools that provide immediate feedback on the impact of adding an order to a schedule, moving an order in a schedule, or deleting an order from a schedule.

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8. Crampton is a scheduling system for a manufacturing environment that allows for editing of the schedule for solving finite capacity planning problems. Crampton shows scheduling a plurality of accepted orders using decision support tools that provide immediate feedback on the impact of adding an order to a schedule, moving an order in a schedule, or deleting an order from a schedule (Figure 34).

9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the scheduling system of Crampton to do the order scheduling for Sparks in view of Weske because the scheduling system can be used to “create new software decision support system solutions that include a model of the resources, activities, constraints, and demands” (Column 4, lines 39-43).

10. Referring to claim 88, Crampton shows wherein the computer system is programmed to add, move, and delete an order by drag and drop functionality (Figure 13).

11. Referring to claim 89, Crampton shows wherein the computer system is programmed to maintain multiple alternative schedules for producing the plurality of accepted orders (column 12, line 27).

12. Referring to claim 90, Crampton shows wherein the computer is programmed to link schedules for successive steps in the manufacturing process to one another, and provide immediate feedback on the impact of adding, moving, or deleting an order, including the impact that this change will have on subsequent steps in the production process (Column 5, lines 13-26).

### ***Conclusion***

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13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael D Masinick  
Primary Examiner  
Art Unit 2125

MDM, December 5, 2006